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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,232	09/20/2001	Kuansan Wang	M61.12-0389	5870
27366 7590 01/17/2008 WESTMAN CHAMPLIN (MICROSOFT CORPORATION) SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402-3319			EXAMINER SCUDERI, PHILIP S	
			ART UNIT 2153	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any; is set in the attached communication.

Office Action Summary

Application No.

09/960,232

Applicant(s)

WANG ET AL.

Examiner

Philip S. Scuderi

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,9,14-18,20-30,34 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,9,14-18,20-30,34 and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

Response to Arguments

Applicant's arguments filed 10/31/2007 have been fully considered but they are not persuasive.

1. Applicant argues that the combination of Barclay and Brown does not teach a client device that “is adapted to send the input speech data to the recognition server remote from the second client device.” Applicant further argues that the combination would result in a system having two speech recognizers, one at server 80 (taught by Barclay) and one as part of an IVR platform (taught by Brown) installed on a client (taught by Barclay).

Claim 1 and 26 merely require that the second device be “adapted to” or “configured to” send the input speech data. Barclay’s devices use a standard browser to send the input speech data [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30]. Thus, any device with a standard browser installed is “adapted to” or “configured to” send input speech data. These claims do not require the claimed second device to actually use such a browser to send input speech data to a server. The examiner

maintains that it would have been obvious to one of ordinary skill in the art to install Brown's IVR platform on a PC that is "adapted to" or "configured to" send input speech data as claimed so long as there would have been any recognizable advantages for doing so. And, there were readily recognizable advantages for making such a modification such as enabling clients to conveniently access web pages that may or may not be hosted by Barclay's server 80 using an audio interface.

The closest limitation in claim 34 merely requires the second client device to "communicate with the web server." This communication of Barclay and Brown meets this limitation because it would have been obvious to one of ordinary skill in the art to access Barclay's server using the second client device so that users could access the web pages provided by the server.

2. Applicant argues that claim 34 now includes features similar to the features recited in claims of patent application 09/960,229 related to when no recognition occurs, which allegedly place this claim in condition for allowance.

The examiner acknowledges that the newly amended features which are duly recited in pending claims of patent application 09/960,229 are not taught by the prior art of record. However, claim 34 is not in condition for allowance because it raises obvious-type double patenting issues and §112, ¶2 issues, as detailed below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*,

140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 34 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7, 11 of copending Application No. 09/960,229 in view of Barclay (U.S. Patent No. 5,960,399) and Brown (U.S. Patent No. 6,587,822). This is a provisional obviousness-type double patenting rejection.

The copending application is directed to a system and method for speech recognition in a client/server network. The copending claims (see claims 1 and 11) recite 5 steps that, on their face, are related to the last 5 steps of claim 34 of the instant application.

The copending claims are largely concerned with error processing. They do not recite some of the basic features of speech recognition over a network. Specifically, the copending the claims do not recite the first 3 steps of claim 34 in the instant application (transmitting, rendering, and obtaining). However, these steps were well known in the art, as evidenced by Barclay and Brown.

In a similar art, Barclay teaches a method and system for speech recognition in a client/server network, comprising:

transmitting information from a web server (80) having extensions (applets) configured to obtain input data from a user of a first client device (70), wherein the first client device communicates with the web server (80) over a wide area network (the Internet), the first client

device (70) having a visual interface browser to access information from the web server (80) and a visual rendering device [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30];

rendering the markup language on the client device (70) [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30]; and

obtaining input data as a function of input from each of the user of the client device [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30].

It would have been obvious to one of ordinary skill in the art to combine the invention set forth in the copending claims with Barclay's system, thereby providing users with a full featured voice recognition system with convenient error handling capabilities.

Barclay does not expressly disclose another client device (i.e., a second client device) that is similar to the first client device (70).

But, Barclay discloses that the server (80) can be reached via the Internet [see Barclay at abstract, col. 9, ll. 1], which suggests that the server (80) is at least capable of serving multiple client devices (70).

One of ordinary skill in the art would readily recognize that serving multiple similar client devices would be advantageous because many users would be able to utilize the services provided by the server (80).

Barclay does not teach that the client device (70) comprises "a telephone and a voice browser to access the information from the web server."

Barclay's client devices (70) are merely standard personal computers (PCs) [see Barclay at fig. 1, col. 4, ll. 57 et seq.]

In a similar art, Brown teaches a PC (IVR platform 102 implemented using a PC) [see Brown at col. 4, ll. 38-41] having a telephone (108) [see Brown at col. 3, ll. 10-11] and a voice browser capable of rendering information from a web server [see Brown at col. 3, ll. 53 et seq.]

It would have been obvious to one of ordinary skill in the art to provide a client (as taught by Barclay) with a telephone and a voice browser (as taught by Brown) because doing so provided advantages such as enabling clients to conveniently access any web page using an audio interface.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34 and 36-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation “the speech recognizer” in lines 28-29. There is insufficient antecedent basis for this limitation in the claim.

Claims 36-39 depend from claim 34 and are rejected for the same reason.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 9, 14, 15, 20, and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barclay (U.S. Patent No. 5,960,399) in view of Brown (U.S. Patent No. 6,587,822).

As to claims 1 and 26, Barclay teaches a server/client system for processing data, the system comprising:

a web server (80) having information accessible remotely [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30];

a recognition server (80) [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30];

a first client device (70) adapted to receive information from the web server (80) and having a visual interface browser to access information from the web server (80) and a rendering device to visually indicate fields to be entered, the first client device (70) configured to record input speech data associated with each of the fields upon an indication by a user of the first client device (70) of which field subsequent input is intended for, and wherein the first client device (70) is adapted to send the input speech data to the recognition server (80) remote from the first client device (70) [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30]; and

wherein the recognition server (80) is configured to receive the input speech data from the client device (70), process the input speech data from the client device (70), and return data indicative of what was recognized to at least one of the client device (70) providing the input speech data and the web server (80) [see Barclay at fig. 4, col. 8, ll. 37 to col. 9, ll. 30].

1. Barclay does not expressly disclose another client device (i.e., a second client device) that is similar to the first client device (70).

But, Barclay discloses that the server (80) can be reached via the Internet [see Barclay at abstract, col. 9, ll. 1], which suggests that the server (80) is at least capable of serving multiple client devices (70).

One of ordinary skill in the art would readily recognize that serving multiple similar client devices would be advantageous because many users would be able to utilize the services provided by the server (80).

2. Barclay does not teach that the client device (70) comprises “a telephone and a voice browser capable of rendering the information from the web server audibly.”

Barclay’s client devices (70) are merely standard personal computers (PCs) [see Barclay at fig. 1, col. 4, ll. 57 et seq.]

In a similar art, Brown teaches a PC (IVR platform 102 implemented using a PC) [see Brown at col. 4, ll. 38-41] having a telephone (108) [see Brown at col. 3, ll. 10-11] and a voice browser capable of rendering information from a web server [see Brown at col. 3, ll. 53 et seq.]

It would have been obvious to one of ordinary skill in the art to provide a client (as taught by Barclay) with a telephone and a voice browser (as taught by Brown) because doing so provided advantages such as enabling clients to conveniently access any web page using an audio interface.

As to claims 8, 14, 15, 27, and 28, Barclay teaches that that markup language comprises HTML (column 8, line 37 – column 9, line 30). It was well known in the art that it was common practice to include script portions in web pages (e.g., javascript), thereby providing more interactive user interfaces. It would have been obvious to do so in the instant case for the same reasons.

As to claims 9 and 20, each client device is adapted to normalize (encode) the input speech data prior to sending the input speech data to the recognition server.

As to claim 25, Barclay teaches that the web server and the recognition server are located on a single machine (figure 4, 80).

As to claims 29 and 30, Barclay teaches that the client device transfers a reference to the grammar to the recognizer with the input data (column 8, lines 26-28).

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barclay (U.S. Patent No. 5,960,399) in view of Brown (U.S. Patent No. 6,587,822), and further in view of Firoozye (reference X on the PTO-892 mailed on 07 December 2004).

As to claims 21-23, Barclay does not teach that the web server detects the type of client device, and dynamically generates markup language according to the type of client device. However, doing so was well known in the art, as evidenced by Firoozye (page 2, "The server chooses the best stylesheet to match a user's immediate needs and renders the content to match it."; page 1, "XSL stylesheets [are] matched to the end-user's environment, the content can be formatted and rendered to match the delivery platform").

Given the teachings of Firoozye, it would have been obvious to one of ordinary skill in the art to dynamically generate markup language according to the type of client device, thereby best matching users' immediate needs.

As to claim 24, XSL stylesheets as described by Firoozye read on the claimed dialog modules and are obvious to use for the reasons set forth above.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barclay (U.S. Patent No. 5,960,399) in view of Brown (U.S. Patent No. 6,587,822), and further in view of Jochumson (U.S. Patent No. 6,453,290).

As to claims 16-18, Barclay teaches that the recognizer uses different grammars to recognize the speech input and that clients may specify the grammar (column 8, lines 26-28), but does not expressly disclose how the clients are aware of which grammars are supported by the recognizer. As such, it would have been obvious to one of ordinary skill in the art to look outside the teachings of Barclay to find a method for enabling the clients to become aware of the supported grammars.

In a similar art, Jochumson teaches a method and system for network based speech recognition that provides a web pages and an associated grammar reference (column 4, lines 43-53). Given the teachings of Jochumson, it would have been obvious to a person of ordinary skill in the art to include an indication of supported grammars, thereby providing clients with a means for entering the appropriate speech input.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Philip S. Scuderi/



GLENTON D. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100